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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/551,868

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Ian J. Palmer

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12/10/2009

3M INNOVATIVE PROPERTIES COMPANY

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EXAMINER

MAYO III, WILLIAM H

ART UNIT

PAPER NUMBER

2831

NOTIFICATION DATE

DELIVERY MODE

12/10/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/551,868	<b>Applicant(s)</b> PALMER, IAN J.	
	<b>Examiner</b> William H. Mayo III	<b>Art Unit</b> 2831	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/27/09, 6/20/08, 9/30/05</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for domestic priority under 35 U.S.C. 120. The PCT Application Number PCT/US04/09986, being filed on April 1, 2004.
2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in present Application No. 10/551,868, filed on November 2, 2006.

### ***Information Disclosure Statement***

3. The information disclosure statements filed January 27, 2009, June 20, 2008, and September 30, 2005 have been submitted for consideration by the Office. They have been placed in the application file and the information referred to therein has been considered.

### ***Specification***

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

6. The abstract of the disclosure is objected to because throughout the abstract, it states the terms such as "In the invention..." and "...as provided", which is improper language for the abstract. The applicant is required to delete such terms to provide the abstract with proper language.

7. The abstract of the disclosure is also objected to because in lines 1-2 and 7-8, the abstract refers to purported merits or speculative applications of the invention, which is improper content for the abstract. The applicant is required to delete all references to

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purported merits or speculative applications of the invention to provide the abstract with proper content. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-10, 15-21, and 25-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Wisniewski (Pat Num 3,482,030). Wisniewski discloses a connection system (Figs 1-4) for interconnection of communication media, such as CATV cables or electrical cables which is simple in construction, easy to install, provides authorized access to the cable ends but provides unauthorized access and provides adequate protection against entrance of water into the interior (Col 1, lines 51-58). Specifically, with respect to claim 1, Wisniewski discloses a connection system (Fig 1) comprising an housing (11) defining a cavity (inside of 10) and including an opening to allow access to the cavity (between end walls 36 & 37 and opposite horizontal wall 35 when cover 23 is removed), one aperture (bottom opening) extending through the housing (11) capable of receiving communication media (not shown, Col 3, lines 15-20), one or more connectors (27) mounted within the cavity (inside of 10) and being capable of interconnecting communication media extending through the aperture (bottom opening, Col 2, lines 30-35), a cover (23) capable of cooperating with the housing (11) to define an air reservoir

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containing a portion of the housing (11) including the opening (inside of 11), the reservoir (inside of 11) and the housing (11) to prevent fluid entering the cavity (Col 3, lines 30-33). With respect to claim 2, Wisniewski discloses that the system (Figs 1-4) further comprises a lid (13) capable of being removably mounted into the opening to seal the cavity (Col 3, lines 27-37). With respect to claim 3, Wisniewski discloses a system (Figs 1-4) wherein the connectors (27) are coupled to the frame (24), wherein the frame (24) is capable of being pivotally mounted to the housing (11) to move between a first position in which the frame (24) is contained in the cavity (inside of 10) and a second position in which the frame (24) extends through the opening (inside of 11) to thereby allow access to the connectors (27, when cover 23 is removed the brackets holding the connectors are also removed). With respect to claim 4, Wisniewski discloses that the cavity (inside of 10) has a first cavity (inside of 11) and a second cavity (inside of 10), wherein the connectors (27) are mounted within the first cavity (inside of 11) and the housing (11) and the cover (23) are arranged such that the first cavity portion (inside of 11) is contained in the air reservoir (inside of 11). With respect to claim 5, Wisniewski discloses that the aperture (bottom opening) extends into the first cavity portion (inside of 11, Fig 3). With respect to claim 6, Wisniewski discloses that the second portion of the housing (11) is capable of receiving further connectors, such as the attachment of the locking bar 12). With respect to claim 7, Wisniewski discloses that the housing (11) has first and second opposing ends (bottom and top ends respectively), wherein the opening is positioned at the first end (i.e. bottom end) of the housing (11), when cover (23) is removed, and the second end (i.e. top end) of the

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housing (11) forms a base (at 35). With respect to claim 8, Wisniewski discloses that the system (Figs 1-4) further comprises a container (10) having a container opening (when 13 is removed) to allow the housing (11) and the cover (23) to be positioned in the container (10) in use (Fig 3). With respect to claim 10, Wisniewski discloses that the container (10) is capable of being positioned in the ground during usage (Fig 1), with the housing (11) positioned below ground level, wherein the communication media extends into the container (10) through an aperture (when 23 is removed) from below ground level conduit (Figs 1 & 3). With respect to claim 15, Wisniewski discloses a method of interconnecting communication media (i.e. cables, Col 1, lines 51-58) wherein the method includes extending communication media into the internal cavity (inside of 11) defined by the housing (11) through one aperture (opening when 23 is removed), wherein the housing (11) has an opening (when 23 is removed) to allow access the cavity (inside of 11), interconnecting the media using one or more connectors (27) mounted within the cavity (inside of 11, Col 2, lines 30-35), and positioning a cover (23) over the housing (11) such that the housing (11) and the cover (23) cooperate to define an air reservoir containing at least a portion of the housing (11) including the opening (inside of 11), the reservoir, and the housing (11) to prevent fluid entering the cavity (inside of 11, Col 3, lines 30-33). With respect to claim 16, Wisniewski discloses a method wherein the step of extending the communication media through the aperture (when 23 is removed) includes inserting the communication media (cables) into the cavity (inside of 11) through the aperture (when 23 is removed) and sealing the aperture (when 23 is removed) with the cover (23) to prevent fluid from entering or leaving the

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cavity (inside of 11) through the aperture (Col 3, lines 30-33). With respect to claim 17, Wisniewski discloses a method further comprising positioning the housing (11) in a container (10) through a container opening (when 13 is removed, Col 3, lines 10-19). With respect to claim 18, Wisniewski discloses a method further comprises positioning the housing (11) adjacent the container (10), extending communication media (cables) into the cavity (inside of 11), interconnecting the communications media to connectors (27, Col 2, lines 30-35), and positioning the housing (11) in the container (10, Col 3, lines 10-19). With respect to claim 19, Wisniewski discloses a method wherein the housing (11) has first and second opposing ends (bottom and top ends respectively), wherein the opening is positioned at the first end (i.e. bottom end) of the housing (11), when cover (23) is removed, and the second end (i.e. top end) of the housing (11) forms a base (35), wherein the cover (23) comprises an upper member (Fig 4) having side members (39) extending perpendicular therefrom, wherein the cover (23) is positioned adjacent the opening (when 23 is removed) in use (Fig 4), wherein the side members (39) extend toward the base (35). With respect to claim 20, Wisniewski discloses a method further comprising removably mounting a lid (13) in the opening (when 13 is removed) to thereby seal the cavity (inside of 10, Col 3, lines 27-29). With respect to claim 21, Wisniewski discloses a method including a connection system (Fig 1) comprising an housing (11) defining a cavity (inside of 10) and including an opening to allow access to the cavity (between end walls 36 & 37 and opposite horizontal wall 35 when cover 23 is removed), one aperture (bottom opening) extending through the housing (11) capable of receiving communication media (not shown, Col 3, lines 15-20),



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one or more connectors (27) mounted within the cavity (inside of 10) and being capable of interconnecting communication media extending through the aperture (bottom opening, Col 2, lines 30-35), a cover (23) capable of cooperating with the housing (11) to define an air reservoir containing a portion of the housing (11) including the opening (inside of 11), the reservoir (inside of 11) and the housing (11) to prevent fluid entering the cavity (Col 3, lines 30-33). With respect to claim 25, Wisniewski discloses a system (Figs 1-4) capable of protecting contents against immersion in a fluid (Col 3, lines 38-46) comprising a housing (11) defining an internal cavity (inside of 11) capable of containing the contents (i.e. cables) and including an opening to allow access to the cavity (between end walls 36 & 37 and opposite horizontal wall 35 when cover 23 is removed) and a cover (23) capable of cooperating with the housing (11) to define an air reservoir containing a portion of the housing (11) including the opening (inside of 11), the reservoir (inside of 11) and the housing (11) to prevent fluid entering the cavity (Col 3, lines 30-33). With respect to claim 26, Wisniewski discloses a system (Figs 1-4) wherein the cover (23) comprises an base member (Fig 4) having side members (39) extending perpendicular therefrom, wherein the cover (23) is positioned adjacent the opening (when 23 is removed) in use (Fig 4), wherein the side members (39) extend toward the base (35). With respect to claim 28, Wisniewski discloses that the opening (when 23 is removed) is at the top of housing (11, i.e. the specification clearly states that the housing 11 is inverted, i.e. upside down, Col 2, lines 49). With respect to claim 29, Wisniewski discloses a method of protecting contents (i.e. cables) against immersion in fluid (Col 3, lines 38-46) comprising placing the contents (i.e. cables) in a

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housing (11) defining an internal cavity (inside of 11) capable of containing the contents (i.e. cables) and including an opening to allow access to the cavity (between end walls 36 & 37 and opposite horizontal wall 35 when cover 23 is removed) and mounting a cover (23) to the housing (11), wherein the cover (23) is capable of cooperating with the housing (11) to define an air reservoir containing a portion of the housing (11) including the opening (inside of 11), the reservoir (inside of 11) and the housing (11) to prevent fluid entering the cavity (Col 3, lines 30-33).

10. Claims 11, 14, 22, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Schilling et al (Pat Num 6,031,180, herein referred to as Schilling). Schilling discloses a container (Figs 20) for containing a connection system for interconnecting communication media (Col 1, lines 5-10). Schilling discloses a container (10) comprising a cavity (inside of 80), a loading system (140) mounted in the cavity (inside of 80) and comprising two tines (142) extending laterally across the container (10), wherein the tines (142) are capable of supporting the connection system in use (160, Col 7, lines 4-7), a drive system (150) positioned in a first end of the container (10) and coupled to the tines (142) to selectively move the tines (142) between a retracted position in which the communication media (i.e. cables) are supported in the container (10) below ground level (Col 1 & 7, lines 5-10 & 19-29, respectively) and an extended position in which the at least a portion of the connection system (160) extends above ground level (Col 1 & 7, lines 5-10 & 19-29, respectively). With respect to claim 14, Schilling discloses that the tines (142) are capable of cooperating with the housing (10) to define a first cavity (inside of 80, Fig 17). With

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respect to claim 22, Schilling discloses a method of loading a connection system (Figs 2 & 17), wherein the method includes using a loading system (140) to position the housing (160) in the container (10), the loading system (140) comprising two tines (142) extending laterally across the container (10), wherein the tines (142) are capable of supporting the connection system in use (160, Col 7, lines 4-7), a drive system (150) positioned in a first end of the container (10) and coupled to the tines (142) to selectively move the tines (142) between a retracted position in which the communication media (i.e. cables) are supported in the container (10) below ground level (Col 1 & 7, lines 5-10 & 19-29, respectively) and an extended position in which the at least a portion of the connection system (160) extends above ground level (Col 1 & 7, lines 5-10 & 19-29, respectively), wherein the method includes placing the tines (142) in the extended position (Fig 2), positioning the connection system (160) such that the connection system (160) is supported by the tines (142, Fig 2) and moving the tines (142) to a retracted position (as shown in Fig 17).

### ***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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12. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schilling et al (Pat Num 6,031,180, herein referred to as Schilling). Schilling discloses a container (Figs 20) for containing a connection system for interconnecting communication media (Col 1, lines 5-10) as disclosed with respect to claim 11 above.

However, Schilling doesn't necessarily disclose the drive system including a winch coupled to the container to allow for manually operating the tines between retracted and extended positions (claim 12).

It would have been obvious to one having ordinary skill in the art of connection systems at the time the invention was made to modify the drive systems of Schilling to comprise the manual winch configuration since such systems are commonly utilized for moving underground containers between positions because they are cheaper in cost and require less maintenance than pneumatic pumps and require no tools to activate but rather just an operator pulling a cable in order to move the container between the required positions.

15. Claims 13 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schilling et al (Pat Num 6,031,180, herein referred to as Schilling) in view of Wisniewski (Pat Num 3,482,030). Schilling discloses a container (Figs 20) for containing a connection system for interconnecting communication media (Col 1, lines 5-10) as disclosed with respect to claims 11 & 22 above.

However, Schilling doesn't necessarily disclose the container being utilized in connection system as disclosed in claim 1 (claims 13 & 23).

Wisniewski teaches a connection system (Figs 1-4) for interconnection of communication media, such as CATV cables or electrical cables which is simple in construction, easy to install, provides authorized access to the cable ends but provides unauthorized access and provides adequate protection against entrance of water into the interior (Col 1, lines 51-58). Specifically, with respect to claims 13 & 23, Wisniewski discloses a connection system (Fig 1) comprising an housing (11) defining a cavity (inside of 10) and including an opening to allow access to the cavity (between end walls 36 & 37 and opposite horizontal wall 35 when cover 23 is removed), one aperture

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(bottom opening) extending through the housing (11) capable of receiving communication media (not shown, Col 3, lines 15-20), one or more connectors (27) mounted within the cavity (inside of 10) and being capable of interconnecting communication media extending through the aperture (bottom opening, Col 2, lines 30-35), a cover (23) capable of cooperating with the housing (11) to define an air reservoir containing a portion of the housing (11) including the opening (inside of 11), the reservoir (inside of 11) and the housing (11) to prevent fluid entering the cavity (Col 3, lines 30-33).

With respect to claims 13 & 23, it would have been obvious to one having ordinary skill in the art of connection systems at the time the invention was made to modify the connection system of Schilling to comprise the container as taught by Wisniewski because Wisniewski teaches that such a configuration is commonly utilized for interconnection of communication media, such as CATV cables or electrical cables which is simple in construction, easy to install, provides authorized access to the cable ends but provides unauthorized access and provides adequate protection against entrance of water into the interior (Col 1, lines 51-58).

### ***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. They are Johnson (Pat Num 5,189,723), Stieb et al (Pat Num 5,722,204), Volk et al (Pat Num 5,384,427), Foss (Pat Num 5,635,673), Craft, Jr (Pat

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Num 6,061,975), Kost (Pat Num 3,672,103), and Weinfurt (Pat Num 3,503,025), all of which disclose various underground containers for usage with cables.

### ***Communication***

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Mayo III whose telephone number is (571)-272-1978. The examiner can normally be reached on M-F 8:30am-6:00 pm (alternate Fridays off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245 or (571) 272-2800 ext 31. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William H. Mayo III/

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William H. Mayo III  
Primary Examiner  
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WHM III  
December 1, 2009